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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 17-017

#### Comments

**[NOTE:** All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

#### 1. Statutory Authority

a. The department should review its definition of “camping unit” to ensure that it aligns with the requirements of ss. 106.63 (1), 101.82 (1) and 145.02 (2) (b), Stats., and applies only to the intended structures. In each of those statutory sections, a camping unit is “set in a fixed location in a campground for which a permit is issued under s. 254.47 [97.67]”, contains a sleeping space and is used for seasonal overnight camping. The department’s definition does not address the location of the unit, nor does it define walls or roofs in a way that makes a clear distinction between tents that are collapsible, portable, and typically carried in and out of a campground by campers and more permanent structures.

b. The department should review whether the citation to s. 101.64 (8), Stats., under s. SPS 327.07, is accurate. That statutory citation appears to apply only to dwelling units, not to camping units.

c. Under s. SPS 327.19 (1), the department states that the attorney general has consented to the incorporation by reference of certain standards. Must the department provide evidence that such consent was obtained?

#### 2. Form, Style and Placement in Administrative Code

a. In the enumeration of provisions treated, insert “SPS” between “ch.” and “327”.

b. Under the summary of factual data and analytical methodologies, the department should consider including that POWTS stands for Private Onsite Wastewater Treatment Systems.

c. In SECTION 1, the department adds camping units to existing language about Wisconsin insignias for dwelling units under s. SPS 302.34 (6). The department should consider adding “camping units” to the title for s. SPS 302.34.

d. In SECTION 5, the chapter and subchapter titles created should be in all capital letters, centered, and not in bold. The department should review the subchapter titles throughout the proposed rule and revise as necessary. [s. 1.05 (2) (a), Manual.]

e. The department creates an effective date under s. SPS 327.03, but it appears to conflict with the effective date under SECTION 8. The department should review these dates and reconcile them as necessary.

f. The department should consider adding “AND MOBILE” between “MOTOR” and “HOMES” in the subsection title under s. SPS 327.05 (6). The department should delete “and” before “recreational vehicles” in the same subsection.

g. Under s. SPS 327.08 (5), the parentheses should be removed. In general, the use of parentheses should be avoided. [s. 1.01 (6), Manual.]

h. Under s. SPS 327.08 (45), the department should explain what ANSI and NFPA stand for. [s. 1.01 (8), Manual.]

i. The department should review whether s. SPS 327.10 (2) (b), which states that camping units for which permits are issued must be inspected, is located in the right section of the proposed rule. Currently, the paragraph is included in the subsection about filing permit applications. The paragraph may be more suitably located under the subsection about inspections.

j. Section SPS 327.12 (5) discusses what must be included on Wisconsin insignia and seems out of place at the end of the section. It may be more logical to place the provision after s. SPS 327.12 (1), which discusses Wisconsin insignia, generally.

k. Section SPS 327.15 currently skips from sub. (2) to sub. (4). It should be renumbered to include subs. (1) to (4). [s. 1.03 (1), Manual.]

l. Section SPS 327.31 (8) currently skips from par. (a) to par. (c). It should be renumbered to include a par. (b). [s. 1.03 (1), Manual.]

m. Under s. SPS 327.34, the department should review whether the reference to an exception under subd. 3. is necessary or accurate. Did the department mean to reference the exceptions under par. (c) instead?

n. Section SPS 327.35 currently skips from sub. (5) to sub. (9). It should be renumbered to move from sub. (5) to sub. (6). [s. 1.03 (1), Manual.]

o. Under s. SPS 327.39 (2) (b) 1. to 4., the subdivision titles should be written with an initial capital letter and should be enclosed in single quotation marks. For example, “General.” should be “‘General.’” [s. 1.05 (2) (e), Manual.]

p. Section SPS 327.41 currently skips from sub. (2) to sub. (5) and should be renumbered. [s. 1.03 (1), Manual.]

q. It appears that the department may have skipped using s. SPS 327.37. (See pages 44 through 46.) The department should review this issue and renumber if appropriate.

### **3. Conflict With or Duplication of Existing Rules**

a. Under s. SPS 320.06, municipalities that intend to exercise jurisdiction over the construction and inspection of new dwellings must comply with several steps, including filing a notice of intent to exercise jurisdiction and copies of required ordinances with the department. The department should review and, if necessary, clarify under s. SPS 327.06 whether the notice of intent to exercise jurisdiction over new dwellings under ch. SPS 320 must mention any intent to exercise jurisdiction over camping units and whether municipalities must also file copies of camping unit-related ordinances with the department. The department should also clarify whether a municipality that chooses not to exercise jurisdiction over new dwellings may still exercise jurisdiction over camping units under the proposed rule.

b. Under subch. II of the proposed rule, the department includes standards for live floor and ceiling loads and dead loads, but not for live snow loads or for wind loads, as are provided for under s. SPS 321.02. The department should consider whether such standards are necessary for camping units and, if not, provide an explanation. If standards for snow loads and wind loads should be included, the department should review its proposed rule for places where those additional loads should be referenced.

c. Under s. SPS 327.21, the department provides requirements for exits from the first floor and a loft of a camping unit, but not from the ground floor or basement of a camping unit, as is required of dwellings under s. SPS 321.03, but the department seems to contemplate the existence of a ground floor in a camping unit because it provides a definition for ground floor. The department should evaluate whether ground floor or basement exit standards are necessary and insert them if so.

### **4. Adequacy of References to Related Statutes, Rules and Forms**

a. The department should consider adding a note under s. SPS 327.10 (1) that explains where camping unit building permit application forms may be obtained. [s. 1.09 (3), Manual.]

b. Under s. SPS 327.10 (3) (a), the department gives municipalities the authority to set fees for inspection and Wisconsin insignia issuance costs. Should this provision include a cross-reference to s. SPS 302.34, which sets the fee that the department will charge for Wisconsin insignia?

c. Under s. SPS 327.11 (1), the department requires that inspections be performed by certified UDC inspectors who hold a certain credential. Should this subsection include a cross-reference to ch. SPS 305, which relates to licenses, certifications, and registrations?

d. The department should consider adding a note under s. SPS 327.16 (1) that explains where a petition for variance form may be obtained. [s. 1.09 (3), Manual.]

e. The department should consider adding a note under s. SPS 327.16 (2) that explains where a municipal recommendation form may be obtained, as is shown under s. SPS 320.19 (2). [s. 1.09 (3), Manual.]

f. The department should consider adding a note under s. SPS 327.17 (1) that explains where a municipality may obtain an application for variance form, if the department intends to require a uniform application. [s. 1.09 (3), Manual.]

## **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. Under the explanation of agency authority, a comma should be inserted after “Stats.” in each of the three paragraphs.

b. Under the summary of factual data and analytical methodologies, the department should delete the extra space after “camping unit design” and should consider revising the second paragraph for clarity regarding what the Dwelling Code Council generally does compared to what is specifically related to camping units. As an example, the paragraph could be revised as follows:

These businesses generally provide input on design, construction, and inspection interests relative to the Uniform Dwelling Code. They provided specific guidance and insight regarding camping unit design, construction, and inspection.

c. Under s. SPS 327.02 (1), the term “built” could be ambiguous. The department should consider replacing it with something more specific, such as “for which construction commenced”. The department should also replace “section” with “chapter” or with a cross-reference to s. SPS 327.03.

d. Under s. SPS 327.02 (2) (f), “there under” should be “thereunder”.

e. The department should consider combining s. SPS 327.04 (1) (a) to (c) into one subsection.

f. The note created under s. SPS 327.05 (1), by itself, appears to contain substantive information. In general, the note may not contain substantive provisions. [s. 1.09 (1), Manual.] The department could insert a cross-reference to s. SPS 327.02 (2) (d), or could consider combining s. SPS 327.05 (1) and the note.

g. Insert “as” between “serve” and “an” under s. SPS 327.05 (4).

h. The department should compare s. SPS 327.06 (1) (a) 3. with the second note created on page 6 under s. SPS 327.05 (1). If there is a conflict, the department could insert a cross-reference under s. SPS 327.06 (1) (a) 3. to s. SPS 327.02 (2) (d) which permits a municipality to apply the provisions of the code to additions and alterations that are otherwise exempt from the code.

i. Under s. SPS 327.08 (24), the department defines “flight” to mean a continuous series of risers and treads, with no intermediate landings. The term “landing” is defined under s. SPS 320.07 (47). Because it appears that the department has tried to copy ch. SPS 320 as much as possible, it should consider defining “landing” under ch. SPS 327.

- j. Under s. SPS 327.08 (3), the colon following “heat load includes” may be deleted.
- k. Under s. SPS 327.10 (2) (a), “application” should be inserted between “permit” and “shall”.
- l. Under s. SPS 320.09 (2) (b), the department includes specific provisions for permits associated with additions, alterations, and repairs of dwelling units. The department should consider whether similar language should be included under s. SPS 327.10 for permits associated with additions, alterations, and repairs of camping units.
- m. Under s. SPS 327.11 (2) (b), the department states that a camping unit building permit applicant must request an inspection. It may be useful to specify when such a request must be made.
- n. Under s. SPS 327.11 (3) (b), the department states that all categories of work for rough inspections may be completed before the notice for inspection is given. The department should consider rephrasing this sentence for clarity. Would it be more accurate to instead say that the work may be completed before an inspection is requested?
- o. Under ss. SPS 327.11 (5) and SPS 327.12 (1), the department should insert “a” between “upon” and “finding” or should delete “of” following “finding” each time that the phrase “upon a finding of” is used.
- p. Under s. SPS 327.11 (7) (a) 2., “Applications” should be “Application”.
- q. The department should consider rephrasing s. SPS 327.12 (2) (a) and (b) from passive to active voice for clarity. For example, par. (a) could state that “the owner of the camping unit shall immediately notify the municipality in writing” and par. (b) could state that “the owner of the camping unit shall return the insignia to the municipality with the appropriate fee”.
- r. Under s. SPS 327.12 (2) (b), “become” should be “becomes”.
- s. Under s. SPS 327.15 (2), the department states that experimental materials may be approved for use. The department should consider including a process for approval of experimental materials, as is provided under s. SPS 320.18 (3).
- t. Under s. SPS 327.15 (4) (a) 1., the department states that it may issue approval for products following receipt of a fee and a written request, but it does not state the amount or how or by whom the fee is set. The department should consider inserting this additional information.
- u. Under s. SPS 327.18 (1), “Appeals of order or determination of a municipality” should be “Appeals of orders or determinations”.
- v. Under s. SPS 327.18 (12), “determination” in the first sentence should be “determinations”.
- w. Under s. SPS 327.18 (3), “Appeals of an order” should be “Appeals of orders or determinations”.
- x. In the top right box of Table SPS 327.19-1, the space between “Air-” and “conditioning” may be removed.

y. Under s. SPS 327.20 (3) (d), the department's note states that other fastening methods may be allowed if engineered under s. SPS 327.20 (3). The department should consider moving this note into a paragraph because it appears to contain substantive information. [s. 1.09 (1), Manual.]

z. On page 25 of the proposed rule, under the Panel Sheathing portion of Table SPS 327.20-2, it appears that there may be a spacing issue following "1/2" gypsum sheathing" and following "5/8" gypsum sheathing". The department may also need to insert a line at the bottom of the page to separate the content of the table from the footnotes.

aa. The department should consider defining "water closet" and "lavatory", which are found in s. SPS 327.24 (3) and (4).

bb. Under s. SPS 327.27 (1) and (2), a space should be inserted between "installed" and "within" and between "service" and "and".

cc. Section SPS 327.28 (5) (c) can be stated more succinctly as follows: "a fastener includes nails, screws, bolts, nuts, and washers".

dd. It appears that the second note under s. SPS 327.31 (10) may contain a substantive provision. The department should consider moving this information into a paragraph because, generally, substantive provisions may not be contained within a note. [s. 1.09 (1), Manual.]

ee. On page 36 of the proposed rule, under Table SPS 327.31-C, the department may need to insert a line in order to separate the table content from the footnotes.

ff. Throughout the tables inserted into the proposed rule, fractions are formatted in two ways: either  $\frac{1}{4}$  or 1/4. The department should choose one formatting option, review its tables, and use consistent formatting.

gg. On page 36 of the proposed rule, in footnote 4 to Table SPS 327.31-B, there appears to be an extra space in the first instance of Sturd-I-Floor.

hh. It appears that the note under s. SPS 327.33 (3) (e) contains substantive information regarding head walls and rake walls. The department should consider moving this information into a paragraph, or perhaps into two definitional paragraphs, because substantive provisions may not be contained within a note. [s. 1.09 (1), Manual.]

ii. In the note under s. SPS 327.33 (4) (a) 1., it appears that the department may have left a word out following "Duct tape or similar". Perhaps the department meant to state "Duct tape or similar materials"?

jj. In the note under s. SPS 327.35 (1) (e), the department defines "ladder". This information should be placed in its own paragraph or subdivision. [s. 1.09 (1), Manual.]

kk. The department should consider moving the information contained in the first two notes under s. SPS 327.36, into subsections, paragraphs, or subdivisions because it appears that they may contain substantive information. [s. 1.09 (1), Manual.]

ll. The department should consider moving the information contained in the note under s. SPS 327.51 to its own subsection or paragraph because it appears to be substantive. [s. 1.09 (1), Manual.]

mm. Under s. SPS 327.51 (5), the department may want to add a reference to carbon monoxide alarms under s. SPS 327.27 and may wish to change “fire alarm” to smoke detector in order to align with the title to s. SPS 327.26.

nn. In s. SPS 327.52 (2) (a), the department should insert “ch.” before “SPS 382 Tables”.

oo. In SECTION 8, Administrative Register should be capitalized. [s. 1.01 (4), Manual.]